

Amendments to the Drawings:

The attached replacement drawing sheet makes changes to Fig. 2 and replaces the original drawing sheet that shows Figs. 1 and 2.

Attachment: Replacement Drawing Sheet

REMARKS

Claims 1-19 are pending in this application. The Office Action withdraws claims 4-19 from consideration as being subject to an election requirement. In light of at least the following remarks, Applicant respectfully requests reconsideration and allowance of the pending claims.

The courtesies extended to Applicant's representatives by Examiners Arancibia and Hassanzadeh at the interview held May 3, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicant's record of the interview.

I. Election of Species Requirement

The Office Action withdraws claims 4-19 from consideration as allegedly drawn to unelected species. In Applicant's January 19, 2006 Response to Election of Species Requirement, Applicant elected species A and traversed the election of species requirement. Applicant hereby affirms the election of species requirement with traverse.

The election requirement, set forth in the December 19, 2005 Office Action, did not allege any reasons why restriction between 9 species is proper.

According to MPEP §803, there are two requirements that must be met before a proper Restriction Requirement can be made. These two requirements are: "the inventions must be independent ... or distinct as claimed; and there must be a serious burden on the Examiner if restriction is not required ... " (emphasis added). Applicant respectfully submits that the Office Action fails to establish both requirements set forth in MPEP §803.

As to the first prong, the December 19, 2005 Office Action states only that the nine species are patentably distinct. Applicant respectfully submits that as the Patent Office has not provided any arguments or other support other than a conclusory statement, the requirements for the first prong remain unestablished.

As to the second prong, Applicant notes, generally speaking, that species A is directed to the formation of three sets of passages in two layers; species B-G generally are directed to additional sets of passages, additional layers, or the formation of the passages in different layers; and species H and I are generally directed to additional structure in the same layers as previous species. Looking to the current classifications of the references already of record, e.g. U.S. Patent No. 4,612,554 to Poleshuk currently classified in U.S. classes 347 and 216, there appears to be no relevant subclasses which would apply to only a subset of the species. Thus, Applicant asserts that a search for species A would encompass the same ground as that required for the other species and therefore Applicant asserts that the requirements for prong 2 have not been met.

It is therefore respectfully asserted that the search and examination of the entire application could be made without serious burden. MPEP §803 states that "if the search and examination of an entire application can be made, without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (Emphasis added).

As the same subclasses in the U.S. patent classification system appear relevant to all the species, a search for all the species would be of no greater burden than a search for only species A. The December 19, 2005, Office Action's allegation that the election requirement is proper as the searches for the various species are not "coextensive" has no basis under the MPEP. For at least these reasons, and in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office, Applicant respectfully requests withdrawal of the election requirement.

II. Drawings

The Office Action objects to the drawings under 37 C.F.R. §184(p)(4) as Fig. 2 has reference character 130 referring to the upper substrate. By this Amendment, Fig. 2 is amended to include reference character 140 referring to the upper substrate in agreement with the specification. Applicant respectfully requests withdrawal of the rejection.

III. Claim Rejections Under 35 U.S.C. §102(b)

The Office Action rejects claims 1-3 under 35 U.S.C. §102(b) as unpatentable over U.S. Patent 4,612,554 to Poleshuk. Applicant respectfully traverses this rejection.

As discussed during the personal interview, Poleshuk teaches of interlocking triangular grooves that when mated and assembled together provide "adequate isolation of the channels to prevent cross talk" (col. 7, lines 38-39, emphasis added). "Alignment and interlocking of the two pieces is automatic and precise" (col. 7, lines 47-48). Importantly, Poleshuk explicitly discloses that the channels are at least isolated enough to prevent cross talk.

Thus, the Office Action's allegation that ink would flow from a passage 29 in the first substrate 28 to a passage 29 in the second substrate 28 and then to a second passage 29 in the first substrate 28 (i.e., that there is cross talk), is explicitly excluded by the disclosure of Poleshuk. As Poleshuk does not disclose or inherently contain all the features of claim 1, Applicant respectfully requests withdrawal of the rejection.

IV. Provisional Claim Rejections Under the Doctrine of Double Patenting

The Office Action provisionally rejects claim 1 under the doctrine of non-statutory obviousness-type double patenting over claim 1 of copending U.S. Application No. 10/707,535. The Office Action provisionally rejects claims 2 and 3 under the doctrine of nonstatutory obviousness-type double patenting over claim 1 of copending application no. 10/707,535 in view of Poleshuk.

Applicant respectfully submits that this rejection has not matured. Applicant will respond further to this rejection and, if necessary, consider the filing of a Terminal Disclaimer when the rejection has matured.

V. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-19 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Jonathan H. Backenstose
Registration No. 47,399

JAO:JHB/jth

Attachment:
Replacement Sheet

Date: May 10, 2006

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 24-0037</p>
--